

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alex Tuminello	Team: Squad #14	CCRB Case #: 201510504	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 12/14/2015 12:10 AM	Location of Incident: [REDACTED]	Precinct: 45	18 Mo. SOL 6/14/2017	EO SOL 6/14/2017	
Date/Time CV Reported Mon, 12/14/2015 10:59 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 12/14/2015 10:59 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Robert Rodriguez	14441	926015	SOD SRG
2. POM Thomas Nicoletti	10662	925830	SOD SRG

Officer(s)	Allegation	Investigator Recommendation
A.POM Robert Rodriguez	Discourtesy: PO Robert Rodriguez spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Robert Rodriguez	Abuse: PO Robert Rodriguez drew his gun.	[REDACTED]
C.POM Robert Rodriguez	Abuse: PO Robert Rodriguez damaged § 87(2)(b) [REDACTED] s property.	[REDACTED]
D.POM Robert Rodriguez	Abuse: PO Robert Rodriguez threatened to arrest § 87(2)(b) [REDACTED]	[REDACTED]
E.POM Robert Rodriguez	Discourtesy: PO Robert Rodriguez spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	[REDACTED]

Case Summary

On December 14, 2015, at approximately 12:10 a.m., § 87(2)(b) in the Bronx, § 87(2)(b) was pulled over for multiple VTL violations, including obstructing traffic with a motor vehicle. The officers who pulled him over were identified by the investigation as PO Robert Rodriguez and PO Thomas Nicoletti of SOD SRG. § 87(2)(b) alleged that during the incident, PO Rodriguez used a series of profane remarks and iterations of the word “fuck” (within **Allegation A**). PO Rodriguez approached, instructed § 87(2)(b) to put his keys on the roof, and asked him where he was coming from. PO Rodriguez then asked him for his dealer plate information and § 87(2)(b) explained that it was in his door panel located on the opposite side of the vehicle. As § 87(2)(b) proceeded to reach for the information, PO Rodriguez put his right hand on his holster and lifted his gun halfway out (**Allegation B**) and stated, “Don’t fucking move like that” (within **Allegation A**). As § 87(2)(b) went to retrieve his ID from his wallet, PO Rodriguez observed his PBA Card and asked, “Let me see those fucking 16s. Fucking bullshitting me, these are fucking e-bay specials (within **Allegation A**). PO Rodriguez removed the cards from his hand and instructed him to exit the vehicle and remove the dealer plates from the vehicle. Once § 87(2)(b) removed the plates, he handed them to PO Rodriguez. PO Rodriguez stated, “Say good-bye to your fucking plates” and proceeded to bend the plates (within **Allegation A** and **Allegation C**). PO Rodriguez then stated to § 87(2)(b) “You know any fucking tow trucks. You better call them right now and if not I am going to arrest you” (within **Allegation A** and **Allegation D**). As PO Rodriguez went back to the police vehicle, § 87(2)(b)’s brother § 87(2)(b) arrived at the location. § 87(2)(b) approached the police vehicle and put his hand on the car door in order to speak to the officers. PO Rodriguez stated, “Get your fucking hands off my car. Who the fuck are you? (**Allegation E**). PO Rodriguez issued § 87(2)(b) seven summonses (Encl. Board Review 03) and instructed him to wait for a tow truck. PO Rodriguez then stated, “Don’t move the fucking car, not one foot or I’ll fucking arrest you” (within **Allegation A** and within **Allegation E**).

Video footage obtained from the Home Depot near the incident location did not show this incident.

Mediation, Civil and Criminal Histories

- § 87(2)(b) and § 87(2)(b) rejected mediation in regards to this complaint because they did not want to see the officer involved in this case again.
- As of February 12, 2016, § 87(2)(b) and § 87(2)(b) have not filed a Notice of Claim with the NYC Comptroller’s Office in regards to this incident.
- Without valid NYSID numbers, the undersigned investigator was unable to look-up § 87(2)(b) and § 87(2)(b)’s criminal conviction history in the NYS Office of Court Administration Database.

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b) (Encl. Board Review 02).
- PO Rodriguez has been a member of the service for fifteen years and has been the subject of 29 previous CCRB allegations involving 15 cases. In CCRB case no. 200915966, a frisk allegation was closed as substantiated against him. PO Rodriguez received charges and no disciplinary action was taken by the NYPD. § 87(2)(g)

eight previous discourtesy allegations and one previous threat of arrest allegation has been pled against PO Rodriguez. None of these allegations were substantiated.

- PO Nicoletti has been a member of the service for 15 years and has been the subject of 17 previous CCRB allegations involving 11 cases. § 87(2)(g)

Potential Issues

- § 87(2)(b) provided contact information for § 87(2)(b) and § 87(2)(b). He stated that both men were present for part of the interaction with PO Rodriguez. On December 23, 2015, the undersigned investigator contacted § 87(2)(b) via telephone and he refused to provide a statement to the CCRB. On December 24, 2015, the undersigned investigator contacted § 87(2)(b) via telephone and he acknowledged knowing § 87(2)(b) but denied being present for the incident.

Findings and Recommendations

Allegations Not Pled

Abuse of Authority – Vehicle Stop: Although § 87(2)(b) was upset that he was pulled over and summonsed for numerous VTL violations, his complaint about this amounts to a summons dispute. Accordingly, no vehicle stop is pleaded in this case.

Abuse of Authority – Property Seizure: § 87(2)(b) complained that the officer took his license plates and PBA card. However, because the plates were taken and vouchered as evidence for two of the summonses and because the PBA card is property of the Patrolmen's Benevolent Association, no property seizure allegation is pleaded.

Allegation A: Discourtesy- PO Robert Rodriguez spoke discourteously to § 87(2)(b)

Allegation E: Discourtesy- PO Robert Rodriguez spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that upon being pulled over by PO Rodriguez and PO Nicoletti, he spoke exclusively with PO Rodriguez. § 87(2)(b) alleged that PO Rodriguez used a series of profane remarks which included the words "fuck" and "bullshitting." § 87(2)(b) alleged that PO Rodriguez cursed at him approximately 28 times during their interaction. § 87(2)(b) who arrived part way through the incident, alleged that PO Rodriguez told § 87(2)(b) "You take what the fuck I give you."

§ 87(2)(b) also alleged that upon arriving at the incident location, when he placed his hands on the police car door in order to speak to PO Rodriguez. PO Rodriguez then stated, "Get your fucking hands off my car. Who the fuck are you?" § 87(2)(b) alleged that the remark PO Rodriguez made to § 87(2)(b) was, "Back up from the fucking car. I don't give a fuck who the owner of the car is. I want to know the fucking owner of the plates."

PO Rodriguez identified himself as the officer that spoke with both § 87(2)(b) and § 87(2)(b) on the date of the incident and stated that § 87(2)(b) seemed startled but was polite. He also stated that PO Nicoletti remained in the police vehicle for the entirety of the incident. PO Rodriguez stated that on the date of the incident, he did not direct any profanities at § 87(2)(b) including the words "fuck" and "bullshitting." He also stated that § 87(2)(b) was very polite when he interacted with him and at no point did he direct any profanities at him. PO Nicoletti also stated that at no point on the date of the incident did he hear PO Rodriguez direct any profanities at any civilians.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation B: Abuse of Authority- PO Robert Rodriguez drew his gun.

Allegation C: Abuse of Authority- PO Robert Rodriguez damaged § 87(2)(b)'s property.

Allegation D: Abuse of Authority- PO Robert Rodriguez threatened to arrest § 87(2)(b)

§ 87(2)(b) stated that on the date of the incident, PO Rodriguez asked him to provide his dealer plate information which was located in the door panel on the opposite side of the vehicle. § 87(2)(b) indicated to PO Rodriguez that he was going to reach for the documents and as he reached, PO Rodriguez placed his hand on his holster and lifted his gun halfway out. PO Rodriguez then placed his hand on § 87(2)(b)'s left shoulder and stated, "Don't fucking move like that." § 87(2)(b) then retrieved the papers and PO Rodriguez also asked him for identification. As § 87(2)(b) removed his identification from his wallet, PO Rodriguez saw his PBA card and asked, "Let me see those fucking 16s. Fucking bullshitting me, these are fucking E-Bay specials." PO Rodriguez took the cards, told

him to exit the vehicle, and directed him to go to the back of the vehicle. PO Rodriguez then directed § 87(2)(b) to remove the dealer plates. § 87(2)(b) did so. When he handed the plates to PO Rodriguez, the officer stated, "Say goodbye to your fucking plates" and proceeded to bend them. PO Rodriguez then returned to the police vehicle for approximately three minutes, then returned to where § 87(2)(b) was on the sidewalk and told him, "You know any fucking tow trucks? You better call them right now and if not I am going to arrest you." PO Rodriguez instructed § 87(2)(b) to wait on the tow truck and stated, "Don't move the fucking car, not one foot or I will fucking arrest you."

§ 87(2)(b) testified that he arrived after PO Rodriguez allegedly had damaged the dealer plates. He stated that § 87(2)(b) explained this to him over the phone prior to arriving. He did not corroborate any of the threat of arrest allegations made by § 87(2)(b).

PO Rodriguez stated that upon approaching the driver's side of § 87(2)(b)'s vehicle, he asked him for license, registration and proof of insurance. He also asked § 87(2)(b) for the dealer license and proof that he was a representative of the dealership because the vehicle had dealer plates. § 87(2)(b) only provided his license and registration for a different vehicle. § 87(2)(b) explained that he was moving the car from one place to another and explained that the vehicle belonged to his brother and the dealer plates belonged to his brother's friend. PO Rodriguez did not recall if § 87(2)(b) provided him with a PBA card. PO Rodriguez stated that he drew his gun at point on the date of the incident. PO Nicoletti also did not observe a PBA card being handed to PO Rodriguez and he did not observe PO Rodriguez draw his gun. PO Rodriguez stated that § 87(2)(b)'s brother arrived at the location and he also did not have the dealer plate information. PO Rodriguez explained that this was illegal. § 87(2)(b) said the plates belonged to his uncle. PO Rodriguez said he looked up the plate's registration information and saw that they were listed for a residential address in the area. PO Rodriguez explained to § 87(2)(b) that the plates had to be removed from the vehicle. § 87(2)(b) removed the plates and handed them to PO Rodriguez. PO Rodriguez stated that the plates were already bent upwards and he vouchered them at the stationhouse. PO Nicoletti corroborated this information during his testimony and stated that the dealer plates could not be read because they were bent upwards. PO Rodriguez allowed the brothers to call a tow truck and explained that they could not drive the vehicle from the location. PO Rodriguez stated that he issued seven summonses to § 87(2)(b) when the tow truck arrived (Encl. Board Review 03). PO Rodriguez stated that at no point on the date of the incident did he bend the dealer plates that were on § 87(2)(b)'s vehicle or threaten to arrest him. PO Nicoletti also stated that at no point on the date of the incident did he observe PO Rodriguez bend the dealer plates and he did not hear PO Rodriguez threaten to arrest § 87(2)(b) at any point.

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Squad: 14

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date